



29 AUG 2005

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In re Application of KNIGHTS et al  
U.S. Application No.: 10/500,318  
PCT Application No.: PCT/GB02/05930  
Int. Filing Date: 27 December 2002  
Priority Date Claimed: 27 December 2001  
Attorney Docket No.: SGU-0068  
For: AN IN-LINE LIGHT SENSOR

DECISION

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.47(a)" filed 10 August 2005.

### **BACKGROUND**

On 27 December 2002, applicant filed international application PCT/GB02/05930, which claimed priority of an earlier United Kingdom application filed 27 December 2001. A copy of the international application was communicated to the USPTO from the International Bureau on 24 July 2003. The thirty-month period for paying the basic national fee in the United States expired on 28 June 2004 (27 June 2004 was a Sunday).

On 28 June 2004, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 11 January 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 09 May 2005, applicant filed a petition under 37 CFR 1.47(a).

On 27 May 2005, this Office mailed a decision dismissing the 09 May 2005 petition.

On 10 August 2005, applicant filed the present renewed petition under 37 CFR 1.47(a).

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Applicant has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

Where a refusal to sign the application papers is alleged, the circumstances of this refusal must be specified in an affidavit or declaration by the person to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Before a refusal can be alleged, it must be demonstrated that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

The renewed petition states that inventor Vonsovici refuses to sign the application papers. Petitioner has adequately demonstrated that a bona fide attempt was made to present a copy of the application papers to Vonsovici for signature (see 04 May 2005 affidavit of Haydn Jones, ¶3). Furthermore, the petition sufficiently establishes that Vonsovici refuses to sign. Specifically, a letter was mailed to Vonsovici on 27 June 2005 and received on 28 June 2005 (see 03 August 2005 affidavit of Haydn Jones, ¶¶3,4). Such letter required Vonsovici to respond unconditionally within 30 days, yet no response was received (see Jones' 03 August 2005 affidavit, ¶4). Thus, it can be concluded with reasonable certainty that Vonsovici refuses to join in the application.

### CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 27 December 2002, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 09 May 2005.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at the last known address of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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PCT Application No.: PCT/GB02/05930  
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For: AN IN-LINE LIGHT SENSOR

Dear Adrian Vonsovici:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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